

AMENDED IN SENATE JANUARY 16, 2004

**SENATE BILL**

**No. 227**

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**Introduced by Senator Hollingsworth**  
(Principal coauthor: Assembly Member Bogh)

February 13, 2003

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An act to amend Section 76 of Chapter 35 of the Statutes of 2002, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 227, as amended, Hollingsworth. Corporation taxes: C and S corporations.

Existing corporation tax laws provide that if a corporation, that has in effect a valid federal election to be treated as an S corporation for federal purposes and a valid state election to be a C corporation for state purposes for taxable years beginning before January 1, 2002, is an S corporation pursuant specified state tax law provisions, the effective date for state purposes of the election to be treated as an S corporation is January 1, 2002.

This bill would ~~make that effective date the same date as the federal election to be treated as an S corporation~~ *provide that a corporation with a valid federal election is not subject to a specified tax on built-in gains with respect to property sold or disposed of on any of three specified time periods.*

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 76 of Chapter 35 of the Statutes of 2002~~  
2     ~~is amended to read:~~

3     ~~Sec. 76. If a corporation that had in effect a valid federal~~  
4     ~~election to be treated as an “S” corporation for federal purposes~~  
5     ~~and a valid state election to be a “C” corporation for state purposes~~  
6     ~~for taxable years beginning before January 1, 2002, is an “S”~~  
7     ~~corporation pursuant to Section 23801 as amended by this act, the~~  
8     ~~effective date of the election to be treated as an “S” corporation~~  
9     ~~for state purposes shall be the same date as the federal election to~~  
10    ~~be treated as an “S” corporation.~~

11    ~~SECTION 1. Section 76 of Chapter 35 of the Statutes of 2002,~~  
12    ~~as amended by Section 20 of Chapter 807 of the Statutes of 2002,~~  
13    ~~is amended to read:~~

14    ~~Sec. 76. If a corporation that had in effect a valid federal~~  
15    ~~election to be treated as an “S” corporation for federal purposes~~  
16    ~~and a valid state election to be a “C” corporation for state purposes~~  
17    ~~for taxable years beginning before January 1, 2002, is an “S”~~  
18    ~~corporation pursuant to Section 23801 as amended by this act, the~~  
19    ~~then the following rules apply:~~

20    ~~(a) The effective date of the election to be treated as an “S”~~  
21    ~~corporation for state purposes shall be the first day of the taxable~~  
22    ~~year beginning on or after January 1, 2002.~~

23    ~~(b) The corporation is not subject to the tax imposed under~~  
24    ~~Section 23809 of the Revenue and Taxation Code, relating to tax~~  
25    ~~on built-in gains, with respect to property sold or otherwise~~  
26    ~~disposed of during any of the following time periods:~~

27    ~~(1) On or before May 8, 2002.~~

28    ~~(2) After May 8, 2002, pursuant to a binding written contract~~  
29    ~~entered into on or before May 8, 2002, which contract was binding~~  
30    ~~at all times after May 8, 2002, until the date of the sale.~~

31    ~~(3) After May 8, 2002, pursuant to a binding written option to~~  
32    ~~purchase, entered into on or before May 8, 2002, and the option~~  
33    ~~was binding at all times after May 8, 2002, until the sales contract~~  
34    ~~was entered into with the same person who exercised the option.~~

35    ~~SEC. 2. This act provides for a tax levy within the meaning of~~  
36    ~~Article IV of the Constitution and shall go into immediate effect.~~

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